

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

)
BROADCAST MUSIC, INC.;)
Stone Diamond Music, Corp.;)
Michael Joe Jackson d/b/a)
Mijac Music; Peacock Music)
Publishing Company, A Division)
Of Jackson Music Holding)
Corporation; Miran Publishing,)
Inc.; EMI Virgin Songs, Inc.)
d/b/a EMI Longitude Music;)
Sony/ATV Songs LLC; The)
Bernard Edwards Company,)
L.L.C.; Warner-Tamerlane)
Publishing Corp.; Fresh Start)
Music, Inc. d/b/a Second)
Decade Music Co.; Jondora)
Music; John A. Fogarty d/b/a)
Taking Care of Business Music;)
)
Plaintiffs,) CIVIL ACTION NO.:
)
v.)
)
RADAFLR, Inc. d/b/a Callahan's)
Irish Pub and Raymond P.)
Flaville, Individually, Fred)
Zeidler, Individually, and)
David Greenhalgh,)
Individually,)
)
Defendants.)
)
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COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows:

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 320 West 57th Street, New York, New York 10019. BMI has been granted the right to license the public performance rights in approximately 4.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Upon information and belief, Defendant RADAFLR, Inc. is a corporation organized and existing under the laws of the state of Pennsylvania, which operates, maintains and controls an establishment known as Callaghan's Irish Pub, located at 7681 Frankford Avenue, Philadelphia, Pennsylvania 19136, in this district. In connection with the operation of this business, Defendant RADAFLR, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

6. Upon information and belief, Defendants Raymond P. Flaville, Fred Zeidler, and David Greenlaugh are officers of Defendant RADAFLR, Inc. with primary responsibility for the operation and management of that corporation.

7. Upon information and belief, Defendants Raymond P. Flaville, Fred Zeidler, and David Greenlaugh have the right and ability to supervise the activities of Defendant RADAFLR, Inc. and a direct financial interest in that corporation.

CLAIMS OF COPYRIGHT INFRINGEMENT

8. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 7.

9. Plaintiffs allege 13 claims of copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

10. Annexed as the Schedule and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the 13 claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 noting the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration

number(s); Line 7 showing the date(s) of infringement; and Line 8 identifying the location of the radio station(s) where the infringement occurred.

11. Each of the musical compositions identified on the Schedule, Line 2, was created by the persons named on Line 3 (all references to "Lines" are to lines on the Schedule).

12. On or about the dates indicated on Line 5, the publishers named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the numbers listed on Line 6.

13. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the public performance rights in the musical compositions identified on Line 2. On the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright in the respective musical composition listed on Line 2.

14. On the dates listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed on the premises of Callaghan's Irish Pub without a license or permission to do so. Thus, Defendants have committed copyright infringement.

15. Defendants performed and/or caused such musical compositions to be publicly performed notwithstanding repeated warnings from Plaintiff BMI that the performance on the premises of the Callaghan's Irish Pub, without permission from the

copyright owners, did and would constitute infringement of copyright in violation of Title 17 of the United States Code.

16. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at Callaghan's Irish Pub, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages in an amount not greater than \$30,000.00 nor less than \$750.00 per claim of infringement, pursuant to 17 U.S.C. Section 504(c);

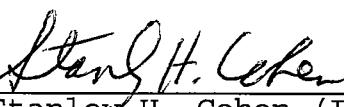
(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) That Plaintiffs have such other and further relief as is just and equitable.

Dated: June 5, 2002

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

By


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SCHEDULE

Line 1	Claim No.	1
Line 2	Musical Composition	Ain't Too Proud To Beg
Line 3	Writer(s)	Eddie Holland, Norman Whitfield
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	5/9/66
Line 6	Registration No(s).	Ep 216556
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	2
Line 2	Musical Composition	Billie Jean
Line 3	Writer(s)	Michael Jackson
Line 4	Publisher Plaintiff(s)	Michael Joe Jackson, d/b/a Mijac Music
Line 5	Date(s) of Registration	12/27/82
Line 6	Registration No(s).	PA 158-772
Line 7	Date(s) of Infringement	11/25/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	3
Line 2	Musical Composition	Dance And Shout Shake Your Body Down To The Ground AKA Dance And Shout
Line 3	Writer(s)	Michael Joe Jackson; Steven Randall Jackson; Tariano A. Jackson; Marlon D. Jackson; Sigmund E. Jackson
Line 4	Publisher Plaintiff(s)	Peacock Music Publishing Company, a Division of Jackson Music Holding Corporation
Line 5	Date(s) of Registration	9/18/78 11/6/78
Line 6	Registration No(s).	PAu 48-752 Pau 104-856
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	4
Line 2	Musical Composition	Don't Stop a/k/a Don't Stop Till You Get Enough
Line 3	Writer(s)	Michael Joe Jackson
Line 4	Publisher Plaintiff(s)	Miran Publishing, Inc.
Line 5	Date(s) of Registration	6/18/79 8/11/80
Line 6	Registration No(s).	Pau 114-601 PAu 240-861
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	5
Line 2	Musical Composition	Get Down Tonight
Line 3	Writer(s)	Harry W. Casey
Line 4	Publisher Plaintiff(s)	EMI Virgin Songs, Inc. d/b/a EMI Longitude Music
Line 5	Date(s) of Registration	6/12/75 6/21/76
Line 6	Registration No(s).	Eu 591389 Ep 354211
Line 7	Date(s) of Infringement	11/25/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	6
Line 2	Musical Composition	I'm Coming Out
Line 3	Writer(s)	Bernard Edwards; Nile Rodgers
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC; The Bernard Edwards Company, L.L.C.,
Line 5	Date(s) of Registration	8/4/80
Line 6	Registration No(s).	PA 75-954
Line 7	Date(s) of Infringement	11/25/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	7
Line 2	Musical Composition	Jungle Boogie
Line 3	Writer(s)	Ronald Bell; George M. Brown; Richard Westfield; Robert E. Bell; Donald Boyce; Robert Mickens; Claydes Smith; Dennis Thomas
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.; Fresh Start Music, Inc. dba Second Decade Music Co.
Line 5	Date(s) of Registration	12-26-73
Line 6	Registration No(s).	EP 319714
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	8
Line 2	Musical Composition	Long Train Runnin'
Line 3	Writer(s)	Tom Johnston
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.
Line 5	Date(s) of Registration	5/14/73
Line 6	Registration No(s).	Ep 311574
Line 7	Date(s) of Infringement	11/25/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	9
Line 2	Musical Composition	Proud Mary
Line 3	Writer(s)	John C. Fogerty
Line 4	Publisher Plaintiff(s)	Jondora Music
Line 5	Date(s) of Registration	12/27/68 7/11/69
Line 6	Registration No(s).	Eu 91333 Ep 260526
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	10
Line 2	Musical Composition	Wanna Be Startin' Somethin'
Line 3	Writer(s)	Michael Joe Jackson
Line 4	Publisher Plaintiff(s)	Michael Joe Jackson d/b/a Mijac Music
Line 5	Date(s) of Registration	11/16/82 12/27/82
Line 6	Registration No(s).	Pau 456-336 Pa 158-770
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	11
Line 2	Musical Composition	You Can't Hurry Love
Line 3	Writer(s)	Eddie Holland; Lamont Dozier; Brian Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	6/14/65
Line 6	Registration No(s).	Ep 203453
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	12
Line 2	Musical Composition	You Dropped A Bomb On Me
Line 3	Writer(s)	Lonnie Simmons; Charlie Wilson; Rudy Taylor
Line 4	Publisher Plaintiff(s)	John A Fogarty d/b/a Taking Care Of Business Music
Line 5	Date(s) of Registration	5/20/82
Line 6	Registration No(s).	PAu 403-085
Line 7	Date(s) of Infringement	11/25/01
Line 8	Place of Infringement	Callahan's Irish Pub

Line 1	Claim No.	13
Line 2	Musical Composition	You Keep Me Hangin' On
Line 3	Writer(s)	Eddie Holland; Lamont Dozier; Brian Holland
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	8/8/66
Line 6	Registration No(s).	Ep 220063
Line 7	Date(s) of Infringement	11/24/01
Line 8	Place of Infringement	Callahan's Irish Pub
